IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 164 OF 2002.

Faridsaheb Hazratsaheb Magdum. ... Petitioner
Versus.
Sou.Rasa Faridsaheb Magdum & anr. ... Respondents.

Shri Bhooshan D.Walimba i/by Shri Ranjit V.More for the Petitioner.

Ms.Nameeta Waghule for the Respondent No.1.

CORAM : ABHAY S. OKA, J.

DATED : 8th July, 2005.

P.C.:

1. The Counsel appearing for the parties state that amicable settlement may not be possible. The Petitioner is the husband and the Respondent No.1 is the wife. The application for maintenance under section 125 of the Code of Criminal Procedure, 1973 was filed by the Respondent No.1 for herself and on behalf of her minor children who are original Applicants Nos.2 to 4. The learned Magistrate rejected the application so far as the Respondent No.1 is concerned. However he directed the Petitioner to pay a sum of Rs.175/- per month each to the original Applicants Nos.2 to 4 towards maintenance from the date of the Application. A Revision was filed by the Respondent No.1 in the Sessions Court. The Revision Application has been allowed by directing the Petitioner to pay maintenance

of Rs.185/- per month to the Respondent No.1.

2. The learned Addl.Sessions Judge disbelieved the case made out by the Petitioner that he had given Talaq to the Respondent No.1. The learned Judge held that as Talaq is not established, right of the Respondent No.1 to claim maintenance survives and accordingly maintenance at the rate of Rs.185/- per month has been granted.

3. After having heard the learned Counsel appearing for the parties, I find no perversity in the impugned Judgment and Order. The finding recorded by the learned Sessions Judge is on the basis of the evidence on record. No interference is called for. Petition is dismissed.

Judge.